

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Macario LEYVA-Cano,

Defendant

Magistrate Docket No: 08 MJ 0929 27

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIACOMPLAINT FOR VIOLATION OF:


Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **March 24, 2008** within the Southern District of California, defendant, **Macario LEYVA-Cano**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **26th** DAY OF **MARCH 2008**



William McCurine, Jr.
UNITED STATES MAGISTRATE JUDGE


CONTINUATION OF COMPLAINT:**Macario LEYVA-Cano****PROBABLE CAUSE STATEMENT**

On March 24, 2008, Border Patrol Agent G. Alvarez was performing his assigned duties in the Campo, California area of operations. At approximately 9:00 a.m., Agent Alvarez responded to a seismic intrusion device activation near an area known as "La Gloria Canyon". This area is approximately ten miles east of the Tecate, California Port of Entry and about half mile north of the United States/Mexico International Border. This area is known for the illegal crossing of illegal immigrants and contraband into the United States do to the close proximity to the United States/Mexico Border.

At approximately 9:15 a.m., Agent Alvarez arrived in the area and soon located fresh footprints for a group of approximately thirteen individuals heading north from a road. After Agent Alvarez followed the footprints for about three hours and forty-five minutes, he was able to observe three individuals trying to conceal themselves under some thick brush. Agent Alvarez approached the individuals and identified himself as a U.S. Border Patrol Agent and began to question each individual as to their citizenship and immigration status. All three individuals admitted to being citizens and nationals of Mexico illegally present in the United States. At approximately 1:00 p.m., the three illegal aliens were arrested and transported to the station for processing. Agent Alvarez continued following the rest of the footprints for approximately two hours and fifteen minutes when he was able to observe ten individuals trying to conceal themselves under some thick brush, including one who was later identified as the defendant **Macario LEYVA-Cano**. Agent Alvarez approached the individuals and identified himself as a U.S. Border Patrol Agent and began to question each individual as to their immigration status. Each person including the defendant freely admitted to being citizens and nationals of Mexico illegally present in the United States. At approximately 3:15 p.m., the defendant and the rest of the group were arrested and transported to the Campo Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on December 31, 2007 through Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.


James E. Bailey
Senior Patrol Agent


William McCurine Jr.
U.S. Magistrate Judge

3/26/08, 1000 hrs
Date/Time